

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1684

Introduced by Assembly Member Emmerson

February 23, 2007

An act to amend Sections 26202.6, 26206.8, 34090.6, 34090.8, 53160, and 53162 of, and to add Section 6254.19 to, the Government Code, relating to local government records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1684, as amended, Emmerson. Local government records: recordings.

(1) Existing law requires counties, cities, cities and counties, and special districts, when installing new security systems, to purchase and install equipment capable of storing recorded data for at least one year, with an exception for economic and technological feasibility. For each entity of local government, existing law requires that videotapes or recordings of routine video monitoring made by a security camera system operated as part of a local public transit system shall be retained for one year, unless the videotapes or recordings are evidence in any claim filed or any pending litigation or record an event that was or is the subject of an incident report, in which case they shall be retained until the matter is resolved.

This bill would reduce the retention requirement from one year to 210 days. It would require each entity of local government, when installing new security systems, to purchase and install the best available technology with respect to storage capacity that is both economically and technologically feasible at that time.

(2) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure. The act makes certain information in specified law enforcement, investigatory, and security records exempt from disclosure.

This bill would provide that the act shall not be construed to require a local agency to disclose a recording of routine video monitoring except that a local agency shall disclose such a recording to a federal, state, or local law enforcement agency, a victim of a crime, an insurance carrier, or any person who suffered bodily injury, property damage, or loss as the result of a crime, unless the disclosure would endanger the safety of a witness or other person involved in an investigation conducted by a law enforcement agency, or unless disclosure would endanger the successful completion of a law enforcement investigation. By imposing new duties on a local agency to disclose a recording of routine video monitoring in the specified circumstances, this bill would impose a state-mandated local program.

(3) The California Public Records Act authorizes state and local agencies to charge a person requesting a copy of a disclosable public record fees covering the direct costs of duplication, or a statutory fee, if applicable.

This bill, notwithstanding any other provision of law, would authorize a local agency to charge additional costs *to inspect or* for a copy of, a record of routine video monitoring, *or both*.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) This bill would make legislative findings to demonstrate that the limitation on the public's right of access to the records of public agencies imposed by these provisions is necessary to protect public safety.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 6254.19 is added to the Government Code, to read:

6254.19. (a) Nothing in this chapter shall be construed to require a local agency to disclose a recording of routine video monitoring, as defined in Section 34090.6, except that a local agency shall disclose these recordings to a federal, state, or local law enforcement agency, a victim of a crime or an authorized representative of a victim of a crime, an insurance carrier against which a claim has been or might be made, or any person who suffered bodily injury, property damage, or loss as the result of a crime, unless the disclosure would endanger the safety of a witness or other person involved in an investigation conducted by a law enforcement agency, or unless disclosure would endanger the successful completion of a law enforcement investigation.

(b) A recording of routine video monitoring shall not be considered a record subject to subdivision (f) of Section 6254.

(c) Notwithstanding any other provision of law, ~~the fee a local agency charges for a copy of a record of routine video monitoring may include all costs of retrieving and duplicating the record. upon receipt of a request to inspect, or for a copy of, a record of routine video monitoring, the local agency may charge the requester a fee to cover all of the agency's costs of retrieving and duplicating the record, including all costs of searching records and all programming and computer services necessary to produce the record for inspection, copying, or both.~~

SEC. 2. Section 26202.6 of the Government Code is amended to read:

~~26202.6. (a) Notwithstanding any other provision of law, the head of a department of a county, after 210 days, may destroy recordings of routine video monitoring, and after 100 days may destroy recordings of telephone and radio communications maintained by the department, subject to all of the following conditions:~~

~~(1) This destruction shall be approved by the legislative body, and the written consent of the agency attorney shall be obtained.~~

~~(2) If the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until the claim or pending litigation is resolved.~~

1 ~~(3) If the recordings are of an event that was or is the subject~~
2 ~~of an incident report, they shall be preserved until the incident is~~
3 ~~resolved.~~

4 ~~(4) If the county utilizes a security system that was purchased~~
5 ~~or installed prior to January 1, 2007, the recordings shall be~~
6 ~~preserved for as long as the installed technology allows.~~

7 ~~(b) For purposes of this section:~~

8 ~~(1) "Department" includes a public safety communications~~
9 ~~center operated by the county and the governing board of any~~
10 ~~special district whose membership is the same as the membership~~
11 ~~of the board of supervisors.~~

12 ~~(2) "Recordings of telephone and radio communications" means~~
13 ~~the routine daily taping and recording of telephone communications~~
14 ~~to and from a county and all radio communications relating to the~~
15 ~~operations of a department.~~

16 ~~(3) "Routine video monitoring" means videotaping by a video~~
17 ~~or electronic imaging system designed to record the regular and~~
18 ~~ongoing operations of a department, including, but not limited to,~~
19 ~~mobile in-car video systems, jail observation and monitoring~~
20 ~~systems, and building security taping systems.~~

21 ~~(Amended by Stats. 2003, Ch. 564, Sec. 3. Effective January 1,~~
22 ~~2004.)~~

23 ~~SEC. 2. Section 26202.6 of the Government Code is amended~~
24 ~~to read:~~

25 ~~26202.6. (a) Notwithstanding the provisions of Sections 26202,~~
26 ~~26205, and 26205.1 any other provision of law, the head of a~~
27 ~~department of a county, after one year 210 days, may destroy~~
28 ~~recordings of routine video monitoring, and after 100 days may~~
29 ~~destroy recordings of telephone and radio communications~~
30 ~~maintained by the department. This, subject to all of the following~~
31 ~~conditions:~~

32 ~~(1) This destruction shall be approved by the legislative body,~~
33 ~~and the written consent of the agency attorney shall be obtained.~~
34 ~~In the event that~~

35 ~~(2) If the recordings are evidence in any claim filed or any~~
36 ~~pending litigation, they shall be preserved until the claim or~~
37 ~~pending litigation is resolved.~~

38 ~~(b) For~~

1 (3) *If the recordings are of an event that was or is the subject*
2 *of an incident report, they shall be preserved until the incident is*
3 *resolved.*

4 (4) *If the county utilizes a security system that was purchased*
5 *or installed prior to January 1, 2007, the recordings of routine*
6 *video monitoring shall be preserved for as long as the installed*
7 *technology allows.*

8 (b) ~~For purposes of this section, “recordings section:~~

9 (1) *“Department” includes a public safety communications*
10 *center operated by the county and the governing board of any*
11 *special district whose membership is the same as the membership*
12 *of the board of supervisors.*

13 (2) *“Recordings of telephone and radio communications” means*
14 *the routine daily taping and recording of telephone communications*
15 *to and from a county and all radio communications relating to the*
16 *operations of the departments a department.*

17 ~~(e) For purposes of this section, “routine~~

18 (3) *“Routine video monitoring” means videotaping by a video*
19 *or electronic imaging system designed to record the regular and*
20 *ongoing operations of the departments described in subdivision*
21 *(a) a department, including, but not limited to, mobile in-car video*
22 *systems, jail observation and monitoring systems, and building*
23 *public property video or closed circuit security taping systems.*

24 ~~(d) For purposes of this section, “department” includes a public~~
25 ~~safety communications center operated by the county and the~~
26 ~~governing board of any special district whose membership is the~~
27 ~~same as the membership of the board of supervisors.~~

28 SEC. 3. Section 26206.8 of the Government Code is amended
29 to read:

30 26206.8. When installing new security systems, a county shall
31 purchase and install the best available technology with respect to
32 storage capacity that is both economically and technologically
33 feasible at that time.

34 SEC. 4. Section 34090.6 of the Government Code is amended
35 to read:

36 34090.6. (a) Notwithstanding any other provision of law, the
37 head of a department of a city or city and county, after 210 days,
38 may destroy recordings of routine video monitoring, and after 100
39 days may destroy recordings of telephone and radio

1 communications maintained by the department, subject to all of
2 the following conditions:

3 (1) This destruction shall be approved by the legislative body,
4 and the written consent of the agency attorney shall be obtained.

5 (2) If the recordings are evidence in any claim filed or any
6 pending litigation, they shall be preserved until the claim or
7 pending litigation is resolved.

8 (3) If the recordings are of an event that was or is the subject
9 of an incident report, they shall be preserved until the incident is
10 resolved.

11 (4) If the city or city and county utilizes a security system that
12 was purchased or installed prior to January 1, 2007, the recordings
13 shall be preserved for as long as the installed technology allows.

14 (b) For purposes of this section:

15 (1) "Department" includes a public safety communications
16 center operated by the city or city and county.

17 (2) "Recordings of telephone and radio communications" means
18 the routine daily taping and recording of telephone communications
19 to and from a city or city and county and all radio communications
20 relating to the operations of a department.

21 (3) "Routine video monitoring" means videotaping by a video
22 or electronic imaging system designed to record the regular and
23 ongoing operations of a department, including, but not limited to,
24 mobile in-car video systems, jail observation and monitoring
25 systems, and building security taping systems.

26 ~~(Amended by Stats. 2003, Ch. 564, Sec. 6. Effective January 1,~~
27 ~~2004.)~~

28 SEC. 5. Section 34090.8 of the Government Code is amended
29 to read:

30 34090.8. When installing new security systems, a city or city
31 and county shall purchase and install the best available technology
32 with respect to storage capacity that is both economically and
33 technologically feasible at that time.

34 SEC. 6. Section 53160 of the Government Code is amended
35 to read:

36 53160. (a) The head of a department of a special district, after
37 210 days, may destroy recordings of routine video monitoring,
38 and after 100 days may destroy recordings of telephone and radio
39 communications maintained by the special district, subject to all
40 of the following conditions:

1 (1) This destruction shall be approved by the legislative body,
2 and the written consent of the agency attorney shall be obtained.

3 (2) If the recordings are evidence in any claim filed or any
4 pending litigation, they shall be preserved until the claim or
5 pending litigation is resolved.

6 (3) If the recordings are of an event that was or is the subject
7 of an incident report, they shall be preserved until the incident is
8 resolved.

9 (4) If the special district utilizes a security system that was
10 purchased or installed prior to January 1, 2007, the recordings shall
11 be preserved for as long as the installed technology allows.

12 (b) For purposes of this section:

13 (1) "Department" includes a public safety communications
14 center operated by the special district.

15 (2) "Recordings of telephone and radio communications" means
16 the routine daily taping and recording of telephone communications
17 to and from a special district, and all radio communications relating
18 to the operations of a department.

19 (3) "Routine video monitoring" means videotaping by a video
20 or electronic imaging system designed to record the regular and
21 ongoing operations of a department, including, but not limited to,
22 mobile in-car video systems, jail observation and monitoring
23 systems, and building security taping systems.

24 ~~(Added by Stats. 2003, Ch. 564, Sec. 9. Effective January 1,~~
25 ~~2004.)~~

26 SEC. 7. Section 53162 of the Government Code is amended
27 to read:

28 53162. When installing new security systems, a special district
29 shall purchase and install the best available technology with respect
30 to storage capacity that is both economically and technologically
31 feasible at that time.

32 SEC. 8. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

37 SEC. 9. The Legislature finds and declares that Section 1 of
38 this act, which adds Section 6254.19 to the Government Code,
39 imposes a limitation on the public's right of access to the meetings
40 of public bodies or the writings of public officials and agencies

1 within the meaning of Section 3 of Article I of the California
2 Constitution. Pursuant to that constitutional provision, the
3 Legislature makes the following findings to demonstrate the interest
4 protected by this limitation and the need for protecting that interest:

5 In order to protect public safety, it is necessary to restrict access
6 to recordings of routine video monitoring that could be used by
7 an individual or group to assess patterns of movement of a person
8 or law enforcement in order to plan and carry out a crime or
9 terrorist act.

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